

PD-0711-18

IN THE TEXAS COURT OF CRIMINAL APPEALS  
AT AUSTIN, TEXAS

FILED  
COURT OF CRIMINAL APPEALS  
11/28/2018  
DEANA WILLIAMSON, CLERK

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EX PARTE BRANDON JOSEPH ADAMS

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On Appeal from the Court of Appeals  
Eleventh Judicial District, Eastland, Texas  
Cause Number 11-17-00332-CR  
42nd District Court of Taylor County, Texas  
Honorable James Eidson, Judge Presiding  
Trial Court Cause Number 26,815-A

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**APPELLANT'S FIRST MOTION FOR EXTENSION OF TIME  
TO FILE REPLY BRIEF ON THE MERITS**

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TO THE HONORABLE COURT OF CRIMINAL APPEALS:

The Appellant, Brandon Joseph Adams, by and through his attorney of record, Kevin W. Wilhelm, moves the Court for an extension of time to file its Reply Brief on the Merits in the above-entitled and numbered cause.

**I. Statement of the Case**

This is an appeal from the 42<sup>nd</sup> District Court's denial of Appellant's double jeopardy claim. On June 14, 2018, the Eastland Court of Appeals reversed the trial

court's decision and rendered a judgment of acquittal. No motion for rehearing was filed. The State requested an extension of time to file the Petition for Discretionary Review on July 11, 2018; the date was extended to August 15, 2018 and the State filed the petition on July 31, 2018. The Court granted the State's Petition for Discretionary Review on September 12, 2018. The State's Brief on the Merits was due on October 12, 2018. The State filed a motion for extension of time to file the Brief on the Merits, which the Court granted, making the State's Brief due October 29, 2018, and Respondent's reply due on November 29, 2018. This is Appellate's first motion for extension of time to file its reply.

## II. Cases Recently Prepared for Jury Trial

Counsel for Appellant has begun work on the brief but has been unable to complete said brief because he has been preparing for a jury trials scheduled for November 5, 2018, in the County Court at Law Number Two of Taylor County, styled No. 2-468-18, State of Texas v. Jason Payton; and a jury trial scheduled for November 26, 2018, in the 104<sup>th</sup> District Court of Taylor County, styled No. 20132-B or 21352-B, State of Texas v. Freddy Fortune and a federal jury trial in the Northern District of Texas, San Angelo Division styled 6:18-CR-046-C, United States of America vs. Matthew Steven Merrill.

Counsel traveled to Lubbock, Texas, from Abilene, Texas for a sentencing hearing on federal case number 1:18-CR-038-C, United States of America vs. Rex Allen Haun on November 28, 2018, the day before the reply was due.

### III. Cases Pending

Additionally, Counsel has jury trial pending on December 3, 2018, in the County Court at Law Number Two of Taylor County, a case styled No. 2-987-18 State of Texas v. Dallas Vaughn; a jury trial pending on December 17, 2018, in the 42<sup>nd</sup> District Court of Taylor County, a burglary of habitation with intent to kidnap case styled, 27451A, State of Texas v. Kristen Dean; and an appellate brief due December 28, 2018, case styled No. 11-18-00257-CR, Ernestina Flores vs. The State of Texas.

### IV. Personal

Counsel attended a three day continuation of legal education for his board certification renewal from November 14, 2018, through November 16, 2018.

### V. Prayer

Appellant's counsel requests a 30 day extension. This request for extension of time is not made solely for the purpose of delay, but so that justice may be served.

Respectfully submitted,

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/s/ Kevin W. Willhelm  
Kevin W. Willhelm  
State Bar No. 00785252

### **CERTIFICATE OF COMPLIANCE**

I, Kevin W. Willhelm, affirm that the above motion is in compliance with the Rules of Appellate Procedure. The font size in the body of the motion is 14 pt. The word count is 719 including the entire motion.

/s/ Kevin W. Willhelm  
Kevin W. Willhelm

### **CERTIFICATE OF SERVICE**

I certify that on this 28<sup>th</sup> day of November, 2018, a true copy of the foregoing Appellate's First Motion for Extension of Time was served on attorney for the State according to the requirements of law by email or efile to:

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State Prosecuting Attorney's Office.

/s/ Kevin W. Willhelm  
Kevin W. Willhelm